IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
C.A. (L) NO.418 OF 2003
IN
COMPANY PETITION NO.571 OF 1995
OFFICIAL LIQUIDATOR'S REPORT DATED 25TH JULY, 2005

In the matter of
Companies Act I of 1956
And
In the matter of M/s.
Ucliff Pharma Ltd.
(In Liqn.)

Lalchand B. Nagpal ..Petitioner.

Mr.S.Udeshi for the Applicant.
Mr. S.C. Gupta, Official Liquidator present.

CORAM: A.M. KHANWILKAR, J.
DATED: 18TH AUGUST, 2005

P.C. :

1. Heard counsel for the parties. This Application is for setting aside the order dated 23.2.1999 passed against the Applicant Company directing winding up of the company and requiring the Official Liquidator to take over possession of the assets and properties. The case made out in the affidavit in support of the application is that the composition of the Board of Directors of the Company had undergone change in 1996. It is averred in paragraph 6 of the affidavit that the registered office of the company was also changed and shifted from Virar to Bhandup. It is then averred that the applicant company was not aware about the pendency

of the Company Petition in this Court and for the first time they were informed about the order of attachment in March, 2003. Thereafter, they have immediately rushed to this Court by way of present application.

2. The case made out by the company has not been rebutted. The counsel for the Petitioner states that the Petitioner is supporting the prayer in this application for reasons set out in the affidavit in support of the application. He further informs that the company is trying to settle the amount which was receivable by the Petitioner. Counsel for the Company further states that besides the Petitioner there is one more creditor and, even his dues will be paid by the company.

3. Consent terms have been arrived at between the Petitioner and the company which are reduced in writing and tendered across the bar. In view of the fact that the Respondent Company was not served with the notice as there is no evidence about the service of notice of the admission of Petition in terms of Rule 28 of the Company Rules, the Applicant is justified in seeking relief in terms of prayer clause (a) of the Petition as in the case of *Skel*

Breweries Ltd. v. Sanman Distributors Pvt. Ltd., reported in *AIR 1999 Bombay, 249*

4. Accordingly, the Application is made absolute in terms of prayer clauses (a) and (b). Mr.Udeshi i/b. M/s.Sanjay Udeshi & Company for the Company waives service of the Company Petition on behalf of the Company.

5. Company Petition is restored to file in view of this order and be placed under caption "Withdrawal" after six weeks. In the meantime, the Petitioner shall take steps to advertise and publish the proposed withdrawal of the Petition and file affidavit of publication within four weeks.

6. In view of the aforesaid, the Official Liquidator will have to restore possession of the property at Virar to the Ex-Director on the ex-Director depositing the requisite amount towards the security charges and incidental cost, if any, quantified by the Official Liquidator.

7. The report of the Official Liquidator stands disposed of by this order. The Ex-Director shall pay cost to the Official Liquidator quantified at

Rs.5,000/- in addition to the security charges and incidental charges, to be specified by the Official Liquidator. Ordered accrodingly.